

## **8. National Historic Preservation Act (NHPA)**

### **Florida needs the protection and resources of federal laws**

Two commenters (0425-A2, 0429-Christina Reichert) stated that Florida cannot afford to lose the protection of federal laws that the Section 404 program under federal agencies provides. Another commenter (0552-A1) mirrored this sentiment by observing that state assumption of the Section 404 program would mean losing the federal protections triggered by current Army Corps of Engineers review. Commenter (0429-Christina Reichert) also noted that Florida does not provide the same access to courts as is available under federal law.

One commenter (0408-A1) noted that permits issued by the state would no longer be subject to the rigorous review provided by an Environmental Impact Statement. Several commenters expressed concern about the loss of protections from specific federal acts, including the Endangered Species Act (0425-A2, 0552-A1), which protects rare and at-risk wildlife; the Magnuson-Stevens Act (0408-A1, 0425-A2, 0552-A1), which protects the Essential Fish Habitat and fisheries; the National Environmental Policy Act (0408-A1, 0425-A2, 0429-Christina Reichert, 0552-A1), which protects the quality of life; and the National Historic Preservation Act (0408-A1, 0425-A2, 0429-Christina Reichert, 0430, 0431-A2, 0552-A1), which protects historical and cultural resources.

One commenter (0552-A1) pointed out that assuming the responsibilities of wetland permitting is very costly and current system in which state of Florida has a shared rather than sole responsibility is a more efficient use of the FDEP's limited resources of staff and funding.

### **Programmatic Section 106 consultation**

One commenter (0431-A2) agreed with EPA's determination that approval or disapproval of the State's 404 Program assumption application is a Federal Undertaking triggering a Programmatic Section 106 consultation under the National Historic Preservation Act.

### **Historic properties review avoids adverse effects**

One commenter (0429-Justin Wolfe) described an agreement between the FDEP and the State Historic Preservation Office, which will ensure protection of historic and cultural resources through a consultation process called "historic properties review." The commenter explained that the review assesses the potential effects that a state Section 404 program permit application may have on historic properties and ways to avoid, minimize, or mitigate adverse effects. The review includes consultation with tribes, local governments, applicants, and the public and complements established procedures for permit processing and public notice under the state Section 404 program.